IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

WP(C).No. 25869 of 2006(D)

PETITIONER:

THOMAS B. ABRAHAM, HILL SIDE ESTATE,
THAMARASSERY P.O., KOZHIKODE-673 573.

BY ADV. SRI.SIBY MATHEW,
ADV. SRI.PHILIP J.VETTICKATTU.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, SECRETARIAT, TRIVANDRUM.**
2. **THE SUPERINTENDENT OF POLICE (RURAL), VADAKARA.**
3. **THE SUB INSPECTOR OF POLICE, THAMARASSERY, KOZHIKODE.**
4. **THE DISTRICT COLLECTOR, KOZHIKODE.**

BY GOVERNMENT PLEADER SRI. SALIM.P.A.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.25869/2006-D:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER DTD. 28/03/1989 PASSED BY THE TALUK LAND BOARD.

EXT.P.2: COPY OF THE ORDER DTD. 29/04/1988 PASSED BY THE TALUK LAND BOARD.

EXT.P.3: COPY OF THE JUDGMENT DTD. 12/09/1996 IN O.P. NO. 1703/1996 PASSED BY THIS HONOURABLE COURT.

EXT.P.4: COPY OF THE JUDGMENT DTD. 08/02/2006 IN O.P. NO. 3366/2002 PASSED BY THIS HONOURABLE COURT.

EXT.P.5: COPY OF THE REPRESENTATION DTD. 17/01/2004 SUBMITTED BY THE PETITIONER BEFORE THE R.2.

EXT.P.6: COPY OF THE REPRESENTATION DTD. 24/07/2006 SUBMITTED BY THE PETITIONER BEFORE HE R.1.

EXT.P.6.A: COPY OF THE REPRESENTATION DTD. 27/09/2006 SUBMITTED BY THE PETITIONER BEFORE THE R.3.

EXT.P.7: COPY OF THE JUDGMENT DTD. 27/06/1989 PASSED BY THE HONOURABLE HIGH COURT IN C.R.P. NO. 879/1989.

EXT.P.8: COPY OF THE JUDGMENT DTD. 17/08/1995 PASSED BY THE SUPREME COURT OF INDIA IN C.A. NO. 7830/1995.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.25869 of 2006-D

Judgment

Balakrishnan Nair, J.

The petitioner has approached this Court, seeking the following relief :

> *"Issue a writ of mandamus or other appropriate writ, order or direction, commanding the 3rd respondent to grant adequate and effective police protection for the peaceful enjoyment of 12.50 acres of land in RS No.2 of Raroth Village without any obstruction from the trespassers in the adjoining land surrendered by M/s.Malabar Produce and Rubber Company Ltd."*

The 4th respondent has filed a statement and also a counter affidavit, seriously disputing the right of the petitioner over the above said property. The petitioner has filed a reply affidavit. According to him, the above stand of the 4th respondent is absolutely unfounded and untenable.

2. In this jurisdiction, we are concerned only with the failure of duty from the part of the Police. The Police cannot decide whether the claim of the petitioner is correct or that of the State is correct and grant protection to the

petitioner, after entering a finding that his claim is correct. The petitioner, to safeguard his property from encroachment, has to move the competent civil court. If the orders of the civil court are not respected by the respondents therein, the said court can direct the Police to render assistance to the petitioner to enforce the injunction order. In view of the above position, the Writ Petition is dismissed without prejudice to the contentions of both sides and the right of the petitioner to move other forums for appropriate reliefs.

K.BALAKRISHNAN NAIR,JUDGE

01.11.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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